

R E M A R K S

It is respectfully requested that this application be reconsidered in view of the above amendments and the following remarks and all of the claims remaining in this application be allowed.

Restriction Requirement

Claims 1-50 stand restricted under 35 U.S.C. §121 into the following three (3) groups identified in the Office Action as:

- Group I: Claims 1-38 and 47-49, drawn to a method for prophylaxis or therapeutic treatment of an IL-10 deficiency-mediated disease, and a method for increasing IL-10 levels in the blood and or tissue comprising administering to a patient an aliquot of blood which has been treated *ex vivo* with a stressor, classified in Class 424, subclass 93.7 and 577;
- Group II: Claims 39-40 and 50 drawn to a pharmaceutical composition comprising patient compatible IL-10 secretion-stimulating stressed mammalian blood cells, classified in Class 435, subclass 372; and
- Group III: Claims 40-46,¹ drawn to a process for alleviating the symptoms of or prophylaxes of an IL-10 deficiency-mediated disease, comprising in vivo stimulation of enhanced IL-10 secretion in the mammalian, classified in Class 424, subclasses 93.7 and 577, for prosecution in the subject application.

In response to this restriction requirement, Applicants elect, with traverse, the invention defined by Group I.

¹ Claim 40 was included in both Group II and Group III. To the extent that this claim is a pharmaceutical composition claim, Applicants assume that this claim belongs in Group II and have excluded Claim 40 from Group III. It is requested that the Examiner advise the undersigned if Applicants assumption is in error.

Applicants traverse this restriction requirement, in part, to the extent that the inventions defined by Groups I and III should be combined into a single group and that this restriction requirement should be recast as a two-way restriction between:

Group A: Claims 1- 38 and 41-49; and

Group B: Claims 39-40 and 50.

Specifically, Applicants note that MPEP §803 states that restriction is not proper even if the restricted claims define independent and distinct inventions if a search of the entire subject matter can be made without a serious burden on the Examiner. In the present case, the claims of both Groups I and III are classified in the same class and sub-classification. Moreover, both groups of claims are directed to methods which increase IL-10. Accordingly, Applicants submit that a search of both Group I and III would not entail a serious burden on the Examiner. Withdrawal of this restriction requirement and recasting it consistent with the above proposed Groups A and B is requested.

Early examination of this application on the merits is requested.

Respectfully submitted,

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